

FIRST REGULAR SESSION

# SENATE BILL NO. 82

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WILSON.

Pre-filed December 1, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

0056S.01I

## AN ACT

To repeal section 571.030, RSMo, and to enact in lieu thereof one new section relating to the unlawful use of weapons, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 571.030, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 571.030, to read as follows:

571.030. 1. A person commits the crime of unlawful use of weapons if he  
2 or she knowingly:

3 (1) Carries concealed upon or about his or her person a knife, a firearm,  
4 a blackjack or any other weapon readily capable of lethal use; or

5 (2) Sets a spring gun; or

6 (3) Discharges or shoots a firearm into a dwelling house, a railroad train,  
7 boat, aircraft, or motor vehicle as defined in section 302.010, RSMo, or any  
8 building or structure used for the assembling of people **or discharges or shoots**  
9 **a firearm into the air for celebratory purposes in an urban area, as**  
10 **defined in section 226.510, RSMo;** or

11 (4) Exhibits, in the presence of one or more persons, any weapon readily  
12 capable of lethal use in an angry or threatening manner; or

13 (5) Possesses or discharges a firearm or projectile weapon while  
14 intoxicated; or

15 (6) Discharges a firearm within one hundred yards of any occupied  
16 schoolhouse, courthouse, or church building; or

17 (7) Discharges or shoots a firearm at a mark, at any object, or at random,  
18 on, along or across a public highway or discharges or shoots a firearm into any  
19 outbuilding; or

20 (8) Carries a firearm or any other weapon readily capable of lethal use

21 into any church or place where people have assembled for worship, or into any  
22 election precinct on any election day, or into any building owned or occupied by  
23 any agency of the federal government, state government, or political subdivision  
24 thereof; or

25 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined  
26 in section 301.010, RSMo, discharges or shoots a firearm at any person, or at any  
27 other motor vehicle, or at any building or habitable structure, unless the person  
28 was lawfully acting in self-defense; or

29 (10) Carries a firearm, whether loaded or unloaded, or any other weapon  
30 readily capable of lethal use into any school, onto any school bus, or onto the  
31 premises of any function or activity sponsored or sanctioned by school officials or  
32 the district school board.

33 2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection 1 of this  
34 section shall not apply to or affect any of the following:

35 (1) All state, county and municipal peace officers who have completed the  
36 training required by the police officer standards and training commission  
37 pursuant to sections 590.030 to 590.050, RSMo, and possessing the duty and  
38 power of arrest for violation of the general criminal laws of the state or for  
39 violation of ordinances of counties or municipalities of the state, whether such  
40 officers are on or off duty, and whether such officers are within or outside of the  
41 law enforcement agency's jurisdiction, or all qualified retired peace officers, as  
42 defined in subsection 10 of this section, and who carry the identification defined  
43 in subsection 11 of this section, or any person summoned by such officers to assist  
44 in making arrests or preserving the peace while actually engaged in assisting  
45 such officer;

46 (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails  
47 and other institutions for the detention of persons accused or convicted of crime;

48 (3) Members of the armed forces or national guard while performing their  
49 official duty;

50 (4) Those persons vested by article V, section 1 of the Constitution of  
51 Missouri with the judicial power of the state and those persons vested by Article  
52 III of the Constitution of the United States with the judicial power of the United  
53 States, the members of the federal judiciary;

54 (5) Any person whose bona fide duty is to execute process, civil or  
55 criminal;

56 (6) Any federal probation officer or federal flight deck officer as defined

57 under the federal flight deck officer program, 49 U.S.C. Section 44921;

58 (7) Any state probation or parole officer, including supervisors and  
59 members of the board of probation and parole;

60 (8) Any corporate security advisor meeting the definition and fulfilling the  
61 requirements of the regulations established by the board of police commissioners  
62 under section 84.340, RSMo; and

63 (9) Any coroner, deputy coroner, medical examiner, or assistant medical  
64 examiner.

65 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not  
66 apply when the actor is transporting such weapons in a nonfunctioning state or  
67 in an unloaded state when ammunition is not readily accessible or when such  
68 weapons are not readily accessible. Subdivision (1) of subsection 1 of this section  
69 does not apply to any person twenty-one years of age or older transporting a  
70 concealable firearm in the passenger compartment of a motor vehicle, so long as  
71 such concealable firearm is otherwise lawfully possessed, nor when the actor is  
72 also in possession of an exposed firearm or projectile weapon for the lawful  
73 pursuit of game, or is in his or her dwelling unit or upon premises over which the  
74 actor has possession, authority or control, or is traveling in a continuous journey  
75 peaceably through this state. Subdivision (10) of subsection 1 of this section does  
76 not apply if the firearm is otherwise lawfully possessed by a person while  
77 traversing school premises for the purposes of transporting a student to or from  
78 school, or possessed by an adult for the purposes of facilitation of a  
79 school-sanctioned firearm-related event.

80 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not  
81 apply to any person who has a valid concealed carry endorsement issued pursuant  
82 to sections 571.101 to 571.121 or a valid permit or endorsement to carry concealed  
83 firearms issued by another state or political subdivision of another state.

84 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this  
85 section shall not apply to persons who are engaged in a lawful act of defense  
86 pursuant to section 563.031, RSMo.

87 6. Nothing in this section shall make it unlawful for a student to actually  
88 participate in school-sanctioned gun safety courses, student military or ROTC  
89 courses, or other school-sponsored firearm-related events, provided the student  
90 does not carry a firearm or other weapon readily capable of lethal use into any  
91 school, onto any school bus, or onto the premises of any other function or activity  
92 sponsored or sanctioned by school officials or the district school board.

93           7. Unlawful use of weapons is a class D felony unless committed pursuant  
94 to subdivision (6), (7), or (8) of subsection 1 of this section, in which cases it is a  
95 class B misdemeanor, or subdivision (5) or (10) of subsection 1 of this section, in  
96 which case it is a class A misdemeanor if the firearm is unloaded and a class D  
97 felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section,  
98 in which case it is a class B felony, except that if the violation of subdivision (9)  
99 of subsection 1 of this section results in injury or death to another person, it is  
100 a class A felony.

101           8. Violations of subdivision (9) of subsection 1 of this section shall be  
102 punished as follows:

103           (1) For the first violation a person shall be sentenced to the maximum  
104 authorized term of imprisonment for a class B felony;

105           (2) For any violation by a prior offender as defined in section 558.016,  
106 RSMo, a person shall be sentenced to the maximum authorized term of  
107 imprisonment for a class B felony without the possibility of parole, probation or  
108 conditional release for a term of ten years;

109           (3) For any violation by a persistent offender as defined in section  
110 558.016, RSMo, a person shall be sentenced to the maximum authorized term of  
111 imprisonment for a class B felony without the possibility of parole, probation, or  
112 conditional release;

113           (4) For any violation which results in injury or death to another person,  
114 a person shall be sentenced to an authorized disposition for a class A felony.

115           9. Any person knowingly aiding or abetting any other person in the  
116 violation of subdivision (9) of subsection 1 of this section shall be subject to the  
117 same penalty as that prescribed by this section for violations by other persons.

118           10. As used in this section "qualified retired peace officer" means an  
119 individual who:

120           (1) Retired in good standing from service with a public agency as a peace  
121 officer, other than for reasons of mental instability;

122           (2) Before such retirement, was authorized by law to engage in or  
123 supervise the prevention, detection, investigation, or prosecution of, or the  
124 incarceration of any person for, any violation of law, and had statutory powers of  
125 arrest;

126           (3) Before such retirement, was regularly employed as a peace officer for  
127 an aggregate of fifteen years or more, or retired from service with such agency,  
128 after completing any applicable probationary period of such service, due to a

129 service-connected disability, as determined by such agency;

130 (4) Has a nonforfeitable right to benefits under the retirement plan of the  
131 agency if such a plan is available;

132 (5) During the most recent twelve-month period, has met, at the expense  
133 of the individual, the standards for training and qualification for active peace  
134 officers to carry firearms;

135 (6) Is not under the influence of alcohol or another intoxicating or  
136 hallucinatory drug or substance; and

137 (7) Is not prohibited by federal law from receiving a firearm.

138 11. The identification required by subdivision (1) of subsection 2 of this  
139 section is:

140 (1) A photographic identification issued by the agency from which the  
141 individual retired from service as a peace officer that indicates that the individual  
142 has, not less recently than one year before the date the individual is carrying the  
143 concealed firearm, been tested or otherwise found by the agency to meet the  
144 standards established by the agency for training and qualification for active peace  
145 officers to carry a firearm of the same type as the concealed firearm; or

146 (2) A photographic identification issued by the agency from which the  
147 individual retired from service as a peace officer; and

148 (3) A certification issued by the state in which the individual resides that  
149 indicates that the individual has, not less recently than one year before the date  
150 the individual is carrying the concealed firearm, been tested or otherwise found  
151 by the state to meet the standards established by the state for training and  
152 qualification for active peace officers to carry a firearm of the same type as the  
153 concealed firearm.